

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

Criminal No. 09-364(1) (JNE/JJK)

Civil No. 12-2267 (JNE)

ORDER

Zack Zafer Dyab,

Defendant.

In February 2013, the Court denied Zack Dyab's motion under 28 U.S.C. § 2255 (2012) and issued a certificate of appealability. Dyab appealed, and the United States Court of Appeals for the Eighth Circuit affirmed. *Dyab v. United States*, 546 F. App'x 601 (8th Cir. 2013) (per curiam), *cert. denied*, 134 S. Ct. 1918 (2014). In August 2014, Dyab filed a motion under Rule 60(b) of the Federal Rules of Civil Procedure. The government opposed the motion, arguing that it is a second or successive § 2255 motion filed without authorization and that the motion should be denied on the merits.

Although he relied on Rule 60(b), Dyab has actually attempted to bring a second motion under § 2255 without authorization from the Eighth Circuit. *See United States v. Lambros*, 404 F.3d 1034, 1036 (8th Cir. 2005) (per curiam); *United States v. Matlock*, 107 F. App'x 697, 698 (8th Cir. 2004) (per curiam). Accordingly, the Court denies the motion. *See Lambros*, 404 F.3d at 1036-37. The Court declines to issue a certificate of appealability. *See id.*

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Dyab's second § 2255 motion [Docket No. 209] is DENIED.
2. A certificate of appealability is DENIED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: September 10, 2014

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge